

Minutes

June 12, 2015

## Memorandum 2015-21

**Minutes of Meeting on June 4, 2015 (Draft)**

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The California Law Revision Commission<sup>1</sup> held a meeting on June 4, 2015. A draft of Minutes for that meeting is attached for Commissioners to review.

The attached draft will be deemed final after it is approved by a vote of the Commission. When voting, the Commission may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

Respectfully submitted,

Brian Hebert  
Executive Director

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1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

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**DRAFT MINUTES OF MEETING**  
**CALIFORNIA LAW REVISION COMMISSION**  
**JUNE 4, 2015**  
**SACRAMENTO**

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A meeting of the California Law Revision Commission was held in Sacramento on June 4, 2015.

**Commission:**

*Present:* Victor King, Chairperson  
Crystal Miller-O'Brien, Vice Chairperson  
Diane F. Boyer-Vine, Legislative Counsel  
Xochitl Carrion  
Judge Patricia Cowett (Ret.)  
Susan Duncan Lee

*Absent:* Damian Capozzola  
Assembly Member Ed Chau  
Taras Kihiczak

**Staff:** Brian Hebert, Executive Director  
Barbara Gaal, Chief Deputy Counsel  
Kristin Burford, Staff Counsel  
Steve Cohen, Staff Counsel

**Consultants:** None

**Other Persons:**

Lawrence Doyle, Conference of California Bar Associations  
Rachel K. Ehrlich, Ehrlich Mediation  
Patrick J. Evans  
James Ewert, California Newspaper Publishers Association  
Lindsey Gullahorn, Capitol Advocacy  
Ron Kelly  
Nicole Moore, California Newspaper Publishers Association  
Harold M. Thomas, Butte County District Attorney's Office  
John S. Warnlof, California Dispute Resolution Council

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### APPROVAL OF ACTIONS TAKEN

Unless otherwise indicated, the Commission decisions noted in these Minutes were approved by all members present at the meeting. If a member voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted in connection with the affected decision.

*(Commissioner Boyer-Vine was present only briefly, near the beginning of the meeting. She was not present when any of the decisions described in these Minutes were made.)*

### MINUTES OF APRIL 9, 2015, COMMISSION MEETING

Memorandum 2015-14 presented a draft of the Minutes of the April 9, 2015, Commission meeting. The Commission approved the Minutes, without change. *(Commissioner Miller-O'Brien was not present when this decision was made.)*

### ADMINISTRATIVE MATTERS

#### **Report of Executive Director**

The Executive Director reported that there has been no change to the Commission's proposed budget for 2015-16.

The Executive Director recognized Anita Barooni, a second-year law student at King Hall School of Law, currently serving the Commission as its King Hall Fellow.

1 Commissioner Carrion announced that she accepted a position with the  
2 District Attorney's Office for the City and County of San Francisco. Due to her  
3 new position, she will not be applying for reappointment to the Commission and  
4 will not be able to attend the August 2015 meeting (the last before her term  
5 expires).

### 6 **Meeting Schedule**

7 The Commission considered Memorandum 2015-15, discussing the  
8 Commission's meeting schedule.

9 The Commission decided to hold two meetings each year at King Hall School  
10 of Law in Davis, one in each academic term.

11 The staff will talk to law school personnel about the possibility of holding an  
12 informal reception with students after the October meeting.

13 *(Commissioner Miller-O'Brien was not present when these decisions were made.)*

### 14 2014 LEGISLATIVE PROGRAM

15 The Commission considered Memorandum 2015-16, reporting on the  
16 Commission's 2015 legislative program. No Commission action was required or  
17 taken.

#### 18 STUDY D-1200 — RECOGNITION OF TRIBAL AND FOREIGN COURT MONEY JUDGMENTS

19 The Commission considered Memorandum 2015-17 and its First Supplement,  
20 providing background for the study on the recognition of tribal and foreign court  
21 money judgments. No Commission action was required or taken.

#### 22 STUDY G-301 — GOVERNMENT INTERRUPTION OF COMMUNICATION SERVICE

23 The Commission considered Memorandum 2015-18 and its First Supplement,  
24 introducing the study and discussing government interruption of a specific  
25 communication service that is used in an unlawful enterprise.

26 The Commission made the following decisions:

- 27 • The study will examine state and local agency action to interrupt  
28 communication service.
- 29 • The study will include analysis of "push notifications," such as  
30 Amber Alerts. The Commission will contact California agencies  
31 that initiate such notices, to invite their participation in the study.

- 1 • The Commission will investigate broadening the application of  
2 Public Utilities Code Section 7908 to include all forms of electronic  
3 communications.
- 4 • The Commission will investigate whether there are legitimate  
5 purposes for government interruption of communications, other  
6 than the abatement of unlawful activity and the protection of  
7 public health, safety, and welfare.
- 8 • Once the Commission has considered the legitimate purposes for  
9 government interruption of communications, it will consider the  
10 extent to which interruption should be permitted in non-urgent  
11 circumstances (with prior notice and an opportunity to be heard).
- 12 • The Commission invites public comment on whether Public  
13 Utilities Code Section 7908(b)(1)(B) should be revised to  
14 incorporate a probable cause standard.
- 15 • The Commission will investigate whether Public Utilities Code  
16 Section 7908 should provide for a prompt post-interruption  
17 opportunity for a hearing on the merits of the government's  
18 allegations.
- 19 • Public Utilities Code Section 7908(d) should be revised to correct  
20 an obsolete reference to the California Emergency Management  
21 Agency.
- 22 • The Commission will examine the relationship between Public  
23 Utilities Code Section 7908 and the federal Emergency Wireless  
24 Protocol.
- 25 • The Commission will investigate broadening the application of  
26 Public Utilities Code Section 7907 to include all forms of electronic  
27 communication. If this change is not made, the Commission will  
28 clarify the relationship between Sections 7907 and 7908.
- 29 • The Commission will investigate broadening the application of  
30 Business and Professions Code Sections 149 and 7099.10 to include  
31 all forms of electronic communication.
- 32 • The Commission will investigate whether Business and  
33 Professions Code Sections 149 should include the ban on  
34 forwarding to a terminated communication service that is included  
35 in Section 7099.10.
- 36 • The Commission will investigate broadening the application of  
37 Public Utilities Code Sections 5322 and 5371.6 to include all forms  
38 of electronic communication.
- 39 • The Commission invites input from the Public Utilities  
40 Commission on whether Public Utilities Code Sections 5322 and  
41 5371.6 should be revised to include a pre-termination notice and  
42 hearing procedure, for use in less-urgent circumstances.
- 43 • The Commission postponed making any decision about  
44 coordination with federal law, until it has fuller information on the  
45 subject.

1        STUDY J-1314 — TRIAL COURT UNIFICATION: PUBLICATION OF LEGAL NOTICE

2        The Commission considered Memorandum 2015-19, presenting a draft  
3 tentative recommendation.

4        The Commission approved the draft as a tentative recommendation, with one  
5 revision. In proposed Government Code Section 6085.460 (San Diego County),  
6 “National District” was changed to “National City District.”

7        STUDY K-402 — RELATIONSHIP BETWEEN MEDIATION CONFIDENTIALITY AND  
8 ATTORNEY MALPRACTICE AND OTHER MISCONDUCT

9        The Commission considered Memorandum 2015-22 and its First Supplement  
10 (further discussion of California law), Memorandum 2015-23 (scholarly  
11 commentary), and Memorandum 2015-24 (public comment). Patrick J. Evans  
12 submitted a binder of written materials at the meeting, as well as a CD and a  
13 flash drive with electronic versions of the same materials.

14        The Commission decided not to propose statutory revisions relating to  
15 mediator immunity in this study. The Commission will focus on the topic  
16 specified in the legislative resolution requiring the study: the relationship  
17 between mediation confidentiality and attorney malpractice and other  
18 misconduct. The Commission did not discuss or decide whether to limit the  
19 study to attorney misconduct, or also address the relationship between  
20 mediation confidentiality and other types of professional misconduct (e.g.,  
21 mediator misconduct).

22        No other Commission action was required or taken.

23                                STUDY R-100 — FISH AND GAME LAW

24        The Commission considered Memorandum 2015-20 and its First Supplement,  
25 which presented a staff draft tentative recommendation on *Fish and Game Law:*  
26 *Technical Revisions and Minor Substantive Improvements (Part 2)*.

27        The Commission approved the staff draft as a tentative recommendation,  
28 with the following revisions:

- 29        • Line 5 of page 5 of the narrative part was revised as follows:

30                ~~To account for that possible repeal, Article 1 also contained~~  
31                ~~Section 250. Section 250 was added to account for that possible~~  
32                repeal.

- 1       • In the proposed amendment of Health and Safety Code Section  
2       131052(6), a reference to Section 1115 was replaced with a  
3       reference to Section 7115.

☐ APPROVED AS SUBMITTED

\_\_\_\_\_  
Date

☐ APPROVED AS CORRECTED  
(for corrections, see Minutes of next meeting)

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Chairperson

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Executive Director